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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/608,467	06/25/2003	Gary K. Burma	H0003936 US	9362

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HONEYWELL INTERNATIONAL INC.
101 COLUMBIA ROAD
P O BOX 2245
MORRISTOWN, NJ 07962-2245

EXAMINER

FORTUNA, JOSE A

ART UNIT	PAPER NUMBER
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1731

MAIL DATE	DELIVERY MODE
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05/10/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/608,467

Applicant(s)

BURMA, GARY K.

Examiner

José A. Fortuna

Art Unit

1731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 3/6/07 & 11/28/06.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) 1-20 and 26-33 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21-25, 34 and 35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

Claims 21-25, and 34-35 are rejected under 35 USC §102(b)/103(a). This rejection is set forth in the prior Office action mailed on September 07, 2006.

Response to Arguments

2. Applicant's arguments filed on March 6, 2007 and November 28, 2006 have been fully considered but they are not persuasive.

With regard to Lipponen et al. rejection, applicants argue that the cited reference does not teach that the actuators are individually operated to affect the magnitude and the shape of the cross direction profile, because the reference seems to teach that the actuators move at the same time. This is considered unconvincing for the following reasons¹:

- The reference clearly indicates on page 6, lines 18-22 that the actuators can be operated independently if desired.
- Even if the nozzles are moved as a whole, since the flow of nozzle, i.e., the magnitude, is operated individually, the device reads on the claims as claimed, since each nozzle would vary the magnitude and shape of the profile. Moreover, it is the examiner contention that moving the nozzles individually is within the levels of ordinary skill in the art, if a more precise control of the profile is desired.

Note that in view of the advances on microchips and microcomputers, it is not

only easier to control individual equipment in any operation, but also economical.

It has been held that “[A] combination of reference teachings may be obvious in the technological sense even though business or economic considerations would previously have counseled against such a combination.” *In re Farenkopf*, 713 F2d 714; 219 USPQ 1.

With regard to DeLigt, applicants argue that the reference teaches that the flow rate can be controlled, i.e., the magnitude, but that it, the reference, does not teach individually controlling the shape of the cross-machine profile, the arguments are not deemed convincing for the following reasons:

- The reference teaches that the each nozzle can be controlled to vary the magnitude and then the nozzles are adjusted to change the fan spray, see paragraph bridging columns 4 and 5.
- Moreover, it is the examiner contention that moving the nozzles individually is within the levels of ordinary skill in the art, if a more precise control of the profile is desired. Note that in view of the advances on microchips and microcomputers, it is not only easier to control individual equipment in any operation, but also economical. It has been held that “[A] combination of reference teachings may be obvious in the technological sense even though business or economic considerations would previously have counseled against such a combination.” *In re Farenkopf*, 713 F2d 714; 219 USPQ 1.

¹ Note that the rejection was under both 102(b) and/or 103(a).

Conclusion

3. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

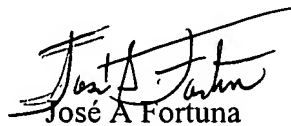
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to José A. Fortuna whose telephone number is 571-272-1188. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven P. Griffin can be reached on 571-272-1189. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1731

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



José A Fortuna
Primary Examiner
Art Unit 1731

JAF